IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Criminal Misc. Appl. No. 791 of 2005

1. Sanjay S/o Surja
2. Suraja S/o Triloki
3. Smt. Omwati W/o Surja
4. Tershpal S/o Surja
5. Raju S/o Surja
6. Km. Ruman D/o Surja
7. Smt. Reena W/o Yeshpal
   All Residents of Village Gotaka
   P.S. Sarurpur Khurd
   District Meerut

.....Applicants

Versus

1. State of Uttaranchal
2. Sessions Judge, Haridwar
3. Smt. Nutan D/o Puran Giri
   R/o Village Daulatpur
   P.S. Jawalapur, District Haridwar .....Respondents.

Shri Pawan Kumar, learned counsel for the applicants.
Shri Lokendra Dobhal and Shri Lok Pal Singh, learned counsel for the respondent No.3.

Hon'ble Prafulla, C. Pant, J.

This petition, moved under Section 482 of Code of Criminal Procedure, 1973 (for brevity herein after referred as Cr. P.C.) with the prayer that the proceedings in criminal complaint case No.281 of 2005 be quashed.

2. On the last due, parties were directed to be present in person today in view of statement of their counsel that there is scope of compromise between the parties as the matter has arisen out of matrimonial dispute. The interim order was earlier granted on the ground that there is likelihood of amicable settlement between the parties. Respondent No.3 is present with her counsel. Learned counsel for the petitioner is present but states that the

petitioner No. 1 could not turn up today. It appears that the petitioners are not inclined to amicably settle the dispute. Therefore, interim order dated 25.02.2006, staying further proceedings in criminal case No. 281 of 2005 is hereby vacated.

3. At this stage, learned counsel for the petitioners, submitted that he wants to argue the case finally toady. Heard learned counsel for both the parties.

4. A criminal complaint case, appears to have been filed by respondent No.3 Smt. Nutan against her husband and in-laws, alleging that she was harassed for non fulfillment of demand of dowry and she was subjected to insult and beaten by the petitioners. The Magistrate appears to have summoned the petitioners after recording the statement of complainant under Section 200 of Cr. P.C. and statement of witnesses under Section 202 of Cr. P.C., relating to offences punishable under Sections 498A, 452, 323, 504, 506 of I.P.C. and one punishable under Section 3/4 of Dowry Prohibition Act, 1961. Against said order, a revision appears to have been filed against learned Sessions Judge, but the same also dismissed. Hence this petition.

5. Learned counsel for the petitioners, argued that the petitioners have been falsely implicated and the revisional court has erred in law by not entertaining the revision. Since the order of the learned Session Judge is based on the Principle of law laid down in Adalat Prasad’s case reported in A.I.R. S.C.W. 2004 Pg. 5174, in which it has been held by the Apex Court that the order summoning the

accused in complaint case is an interlocutory order and revision is not maintained against such order. As such, the impugned order, passed by learned Sessions Judge, dismissing the revision, cannot be said to be illegal.

6. As far as the contention relating to innocence of the petitioners is concerned, it is the matter to be examined by the trial court after recording the evidence. It is not just and proper on the part of this Court to quash the proceedings in criminal complaint case even before the evidence is recorded, particularly when the ingredients of the offences for which the accursed are summoned, are made out.

7. For the reasons, as discussed above, without expressing any opinion as to the final merits of the case, the petition under Section 482 of Cr. P.C. is dismissed. The interim order dated 25.02.2006, stands vacated. (All pending applications, in this case also stand disposed of).

(Prafulla, C. Pant, J.)

Dt. 26.10. 2006.
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